



## ILLINOIS WORKERS' COMPENSATION COMMISSION

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### CHRONOLOGY OF WORKERS' COMPENSATION LEGISLATION IN ILLINOIS

- 1884 The first workers' compensation laws originated in Germany with a system of accident insurance covering all employees in manufacturing, mining, and transportation. Similar laws passed in Austria in 1887, Norway in 1894, and Finland in 1895. Great Britain's law in 1897 was the prototype for U.S. laws.
- 1902 Maryland passed the first act in the United States, which was restricted to death cases.
- 1909 A disastrous mine fire in Cherry, Illinois killed 259 people and provided the impetus for worker safety and workers' compensation legislation. In a special session, the legislature created a commission to study and recommend the best way to compensate for industrial accidents.
- 1910 The Employers' Liability Commission surveyed 1,200 employers, 1,700 labor organizations, 200 judges and lawyers, as well as Americans living in foreign countries.
- The group researched 5,000 accidents. Of the 506 fatal accidents, they found that 40% of the families received nothing (a national study of injuries claimed that in 88% of the cases, workers received nothing); seldom did a family receive benefits in less than three years; and for every dollar an employer paid for liability insurance, only 25¢ reached the injured worker.
- The group called for a compensation measure that blocked common law suits and ensured more prompt and fair compensation.
- 1912 Illinois' first workers' compensation law took effect May 1, 1912. It applied only to certain hazardous industries: mines, construction, electrical work, etc.
- 1913 The courts had declared the 1912 act invalid, so the legislature replaced it with a new one that was upheld by the Illinois Supreme Court.
- Because the courts had been flooded with new workers' compensation cases, the legislature also created a three-member Industrial Board to handle the cases.
- 1917 The legislature created a five-member Industrial Commission within the Illinois Department of Labor under the Illinois Civil Administration Code.
- Several lawsuits challenged the constitutionality of compulsory workers' compensation laws. After the U.S. Supreme Court upheld the law, the legislature mandated coverage for extra-hazardous occupations.
- 1948 Workers' compensation laws existed in all U.S. states.

1957 The Commission separated from the Department of Labor and became a self-standing agency. The Occupational Diseases Act became mandatory.

1970 Congress passed the Occupational Safety and Health Act (OSHA). It also created a national commission to study workers' compensation systems across the country and recommend improvements.

At the time, workers' compensation benefits were widely considered to be inadequate. In more than half the states, the maximum benefit for a temporary total disability was below the poverty level for a family of four.

Later, the group issued 84 recommendations concerning the coverage of employees and diseases, income protection, medical care, worker safety, and program administration.

1975 Illinois responded to the national commission's recommendations by enacting the following:

1. The temporary total disability benefit was set at 66 2/3% of the employee's average weekly wage (AWW), up to 100% of the statewide average weekly wage (SAWW). The minimum benefit increased from \$31.50 per week for a single person to \$100.90 per week or the employee's AWW, whichever is less. The maximum benefit increased from \$100.90 per week for a single person to \$205 per week or 50% of the employee's AWW, whichever is more. The limit on the total number of weeks that may be awarded was removed.
2. The maximum permanent partial disability benefit was set at 66 2/3% of the employee's AWW, up to 100% of the SAWW. The minimum benefit increased from \$31.50 per week for a single person to \$80.90 per week or the employee's AWW, whichever is less. The maximum benefit increased from \$80.90 per week for a single person to \$205 per week or 50% of the employee's AWW, whichever is more.
3. The maximum death benefit was set at 66 2/3% of the employee's AWW, up to 100% of the SAWW, for the lifetime of the surviving spouse. The law also provided that the death benefit should never be less than 50% of the employee's AWW.
4. The statute of limitations was changed to require filing a case within three years of the accident or two years from the date of last payment. Before 1975, employees had to file a claim within one year of the date of the accident or the date of last payment.
5. In recognition of the time-value of money, the legislature authorized interest payments for certain cases on appeal from the date the arbitration decision was issued to the date the monies were paid.
6. To offset the effects of inflation, the Rate Adjustment Fund was created to provide cost-of-living increases to individuals who were totally and permanently disabled or the survivors of fatally injured workers.
7. It became illegal for an employer to fire an employee for filing a workers' compensation claim.
8. Before 1975, employees could not choose the doctors who treated them for their work-related injuries. This was changed to allow employees the unlimited choice of provider. It also assigned the employer responsibility for the cost of rehabilitation.
9. A new disability category--"man as a whole"--was created in Section 8(d)(2) of the law that allows the Commission to make awards based on the percentage of loss of the whole person, as opposed to losses of specific parts of the body.

1976 The legislature deleted the provision that allowed high wage earners to receive 50% of their weekly wages without an upper limit. Instead, the maximum benefit for all employees became 66 2/3% of the employee's AWW, up to 100% of the SAWW.

- 1977 The legislature changed the death benefit from a lifetime benefit to 20 years of weekly benefits or \$250,000, whichever is greater. It also increased the maximum benefit level from 100% to 133 1/3% of the SAWW for TTD, PTD, and death benefits.
- 1980 In response to backlogs that began with the 1975 expansion of the program, the legislature approved a significant increase in the Commission's appropriations and staff.  
The legislature also cancelled until 1984 the semi-annual cost-of-living increases that are tied to increases in the SAWW.
- 1981 The legislature limited the employee's choice of provider to two providers.  
It also directed arbitrators and commissioners to provide full written decisions with findings of fact and conclusions of law.
- 1982 The legislature allowed insurance carriers to set their own premium rates for workers' compensation insurance. Previously, they had to obtain approval from the Department of Insurance. The law also prohibited carriers from agreeing to adhere to an established price structure. (Effective January 1, 1983)
- 1983 Due to budget cuts, the Commission eliminated the Insurance Compliance Program, which tried to ensure that employers met their legal obligation to obtain w.c. insurance.
- 1984 The legislature made the following changes:
1. It created an emergency process (Section 19(b-1)) for claimants who are not receiving TTD or medical benefits. The law mandated that emergency decisions shall be issued within 180 days.
  2. It created the Commission Review Board to investigate complaints concerning arbitrators and commissioners, and make recommendations to the governor.
  3. It reduced permanent partial disability benefits from 66 2/3% to 60% of the employee's AWW. PPD benefits were frozen at \$293.61/week until 1988.
- 1985 The legislature ordered the Commission to issue decisions within 60 days of oral arguments.  
It also created the Self-Insurers Advisory Board to oversee the review of applications for self-insurance and the general administration of the law.
- 1986 The National Council on Compensation Insurance took responsibility for keeping employers' records of insurance.
- 1989 Business and labor groups jointly supported corrective legislation that made the following changes:
1. It acknowledged the Commission's long-standing shortage of resources, and authorized additional staff and funding.
  2. It established minimum qualifications for commissioners, established six-year terms for arbitrators, mandated training programs, and established the chairman as the chief executive officer of the Commission.
  3. It created a temporary panel of commissioners to eliminate a backlog of over 1,700 cases at the oral argument level (4/90 – 10/91). It also authorized arbitrators to serve as acting commissioners when vacancies occur.
  4. To expedite the resolution of cases, the law prohibited parties from introducing additional evidence at the review level.
  5. It created the Workers' Compensation Advisory Board, consisting of nine representatives from the employer, employee, and public communities, to assist the Commission in formulating goals and policies.

6. It authorized the Commission to penalize employers that knowingly fail to obtain insurance coverage or to make payments into the Rate Adjustment or Second Injury funds.
- 1991 The legislature increased the funeral benefit for fatally injured workers from \$1,750 to \$4,200, effective July 1, 1992.
- It also made it illegal for an employer to inquire whether job applicants have ever filed for workers' compensation or received benefits.
- 1995 The legislature repealed the 1907 Structural Work Act, which had allowed workers injured in construction accidents to seek relief under both workers' compensation and in court.
- 1996 The legislature increased the assessment levels paid by insurers and self-insured employers to the Rate Adjustment Fund, which provides cost-of-living benefits to 1,500 people who are either permanently and totally disabled or the survivors of fatally injured workers. The fund had experienced shortfalls for the previous nine years. At this point, the Commission started borrowing money from the General Revenue Fund in order to pay RAF benefits.
- The Commission reconstituted the Insurance Compliance Program, to make sure that all employers have workers' compensation insurance, as required by law.
- 1997 The legislature stated that employers in building and construction, and certain group self-insurers, must pay workers' compensation insurance premiums based on the rates in Illinois where the work is located. The intent is to eliminate the competitive advantage held, for example, by an Indiana contractor paying the lower Indiana insurance rates and bidding for a job in Illinois against Illinois contractors.
- 1999 The language allowing corporate officers of small businesses to opt out of the workers' compensation program was changed to allow *any* corporate officer this option. Members of a limited liability company may opt out as well.
- The legislature also clarified that general contractors and their subcontractors are included in employers' legal responsibility to pay workers' compensation.
- 2001 Because the Department of Insurance regulates group self-insurance pools, the legislature transferred the Group Self-Insurers Insolvency Fund from the Commission to DOI, effective January 1, 2001, and renamed it the Workers' Compensation Pool Insolvency Fund. Both agencies supported this change.
- The legislature also stated that parties may enter into lump-sum settlement agreements in PPD or PTD cases that prorate the amount over the life expectancy of the injured worker. This change codified existing practice and was designed to avoid confusion regarding the offset of Social Security benefits by workers' compensation benefits.
- Effective August 9, 2001, employers that do not obey the law requiring them to insure for their workers' compensation liabilities are subject to a minimum fine of \$10,000.
- 2002 The legislature authorized a new district office, which opened in Collinsville in Fall 2002.
- 2003 The legislature and governor established an independent source of funding for the Commission, making Illinois the 46<sup>th</sup> state to pay for its workers' compensation agency through a dedicated, non-GRF source. The assessment enabled the Commission to hire more arbitrators and reduce arbitrators' caseloads.

2005 Effective January 1, the agency's name changed to the Illinois Workers' Compensation Commission.

On July 20, the governor signed HB2137 into law (PA 94-0277), which contains the following provisions:

1. It directed the Commission to create the first w.c. medical fee schedule, effective for treatments on or after 2/1/06, and it created a W.C. Medical Fee Advisory Board to advise the Commission.
2. It created the first ban on balance billing by barring an medical provider from seeking payment of outstanding medical bills from a worker who informs the provider that his or her case is pending at the Commission.
3. It increased the number of commissioners from seven to 10.
4. It increased the number of members on the Workers' Compensation Advisory Board from nine to 12 (six represent the employer and six represent the employee).
5. It increased the employers' contribution level to the Rate Adjustment Fund, and provided for the fund's eventual dissolution by stating that all subsequent cost-of-living benefits shall be paid directly by the employer.
6. It provided that the Commission shall issue decisions within 180 days from the date the *Petition for Review* was filed for all expedited cases filed under Section 19(b) of the Act that involve 12+ weeks of TTD. It also authorized employers and insurers to ask for expedited hearings in certain situations.
7. It stated arbitrators must write full written decisions only if requested by a party.
8. It created fraud penalties and created a fraud unit within the Division of Insurance. Workers who are convicted of fraud shall become ineligible for w.c. benefits; anyone who is convicted of fraud may be found guilty of a felony and/or civilly liable for 2-3 times the benefits in question.
9. It strengthened the Commission's ability to enforce the law requiring employers to have w.c. insurance. An uninsured employer may be shut down and/or lose its exclusive remedy protection under the Act. Penalties collected from uninsured employers are dedicated to paying the benefits of injured employees.
10. It increased minimum TTD and PPD benefits and indexed benefits to the minimum wage; it increased disfigurement and scheduled PPD benefits by 7½%; it increased the burial benefit from \$4,200 to \$8,000; and it created TPD benefits and defined maintenance benefits for the first time.

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